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% 10.08.2006

Present: Mr. Raman Kapur, Advocate for the Petitioners.
None for Respondent No.1.
Mr.Naresh Thanai, Adv.for Respondents No.2, 3 & 5.
Mr. S.K.Rout, Advocate, for Respondents NO. 4 & 6.

+ CM (M) No.920/2003
+ CM (M) No.924/2003

* Admit.

At request of learned counsel for the parties, the matter is taken up for final disposal.

The petitioners have impugned the orders dated 30.08.2003 passed by the learned Additional District Judge whereby all the legal heirs of late Sh.Banarasi Dass Sethi were impleaded on his demise. Late Sh. Sethi had filed suits for possession against respondent no.1, the tenant in the suit property. Decrees have already been passed but in view of the fight between the legal heirs of late Sh.Sethi the tenants seem to be enjoying the property without even paying rent for the same.

It is the claim of petitioner no.1, wife of late Sh.Banarasi Dass Sethi, that she is entitled to the suit property in view of a registered Will executed by late Sh.B.D.Sethi. The petitioner no.2 is one of the sons of late Sh.B.D.Sethi and is apparently also the beneficiary under the Will. Respondent no.2 is the other son of late Sh.B.D.Sethi while respondents no.3 to 6 are the daughters.

After some arguments, it is agreed that the impugned order passed will not amount to creation of any right or title since the issue of validity of the Will itself is in dispute. The fact however

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remains that the two petitioners and respondents no.3 to 6 are the natural legal heirs of the deceased-plaintiff. It is thus agreed that the possession of the tenanted premises and the claim for damages would continue to be prosecuted by the petitioner no.1 who will act as receiver of the property till such time as the probate court decides the issue of validity of the Will. It is made clear that this agreement is only in respect of appointment of petitioner no.1 and not petitioner no.2. It is further agreed that out of the amount to be recovered petitioner no.1 would be entitled to appropriate sum of Rs 10,000 per month towards her own expenses.

Petitions stand disposed of.

+ CM No 1989/2003 & CM No.1126/2004 in CM(M) No.920/2003
+ CM No.1996/2002 & CM No.1127/2004 in CM(M) No.924/2003

* No further directions are called for on these applications.

The applications stand disposed of.

August 10, 2006
dm

SANJAY KISHAN KAUL, J.

Fresh CM 15492/06
u/s 151 CPC

%19.02.2007

Present: Mr.Raman Kapur for the petitioners.
Mr.S.S.Mishra for respondent No.2.
Mr.S.K.Rout for respondents 4 and 6.

+CM.No.15492/2006 in CM(M) No.920/2003
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1. With consent of parties, applicant is appointed as a receiver. Terms of appointment of receiver would be as per order dated 10.8.2006 whereunder petitioner No.1 was appointed as a receiver.

2. Application stands disposed of.

3. Dasti.

February 19, 2007
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PRADEEP NANDRAJOG, J.